General Assembly
Official Records
Seventy-first Session
Supplement No. 33

A/71/33

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

United Nations • New York, 2016

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Contents

Chapter		Page
I.	Introduction	4
II.	Maintenance of international peace and security	7
	A. Implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions	7
	B. Consideration of the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security	9
	C. Consideration of the further revised working paper submitted by the Bolivarian Republic of Venezuela entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs"	10
	D. Consideration of the revised working paper submitted by Belarus and the Russian Federation	10
	E. Consideration of the working paper submitted by Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations	11
	F. Consideration of the working paper submitted by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes	12
III.	Peaceful settlement of disputes	14
	A. Proposal by the Russian Federation to recommend that the Secretariat be requested to establish a website on the peaceful settlement of disputes and update the *Handbook on the Peaceful Settlement of Disputes between States*	14
	B. Proposal submitted on behalf of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace"	15
IV.	*Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council*	16
V.	Working methods of the Special Committee and identification of new subjects	19
	A. Working methods of the Special Committee	19
	B. Identification of new subjects	21
Annex		
	Working paper by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes	23

Chapter I
Introduction

1. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was convened in accordance with General Assembly resolution 70/117 and met at United Nations Headquarters from 16 to 24 February 2016.

2. In accordance with paragraph 5 of General Assembly resolution 50/52, the Special Committee was open to all States Members of the United Nations.

3. The Special Committee held three meetings: the 281st to 283rd, on 16, 17 and 24 February. The Working Group of the Whole, established at the 281st meeting, held five meetings, from 17 to 19 and on 22 and 24 February.

4. The session was opened by Odo Tevi (Vanuatu), in his capacity as Chair of the previous session of the Special Committee.

5. At its 281st meeting, on 16 February, the Special Committee, bearing in mind the terms of the agreement regarding the election of officers reached at its session in 1981,[1] elected the following members of its Bureau:

Chair:
Janine Elizabeth Coye-Felson (Belize)

Vice-Chair:
Mehdi Remaoun (Algeria)
Nicolae Comănescu (Romania)

Rapporteur:
Nadia Alexandra Kalb (Austria)

6. At its 282nd meeting, on 17 February, the Special Committee elected the following member of its Bureau:

Vice-Chair:
Vasiliki Krasa (Cyprus)

7. The Bureau of the Special Committee also served as the Bureau of the Working Group of the Whole.

8. The Director of the Codification Division of the Office of Legal Affairs acted as Secretary of the Special Committee. The Senior Legal Officer of the Division acted as Assistant Secretary of the Special Committee. The Division provided substantive services for the Special Committee and the Working Group.

9. At its 281st meeting, the Special Committee adopted the following agenda:

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.

[1] A/36/33, para. 7.

5. Consideration of the questions referred to in General Assembly resolution 70/117, in accordance with the mandate of the Special Committee as set out in that resolution.

6. Adoption of the report.

10. General statements touching on all or several items were made at the 281st and 282nd meetings. Their substance is reflected in the relevant sections of the present report.

11. With regard to the question of the maintenance of international peace and security, the Special Committee had before it all the related reports of the Secretary-General,[2] including the most recent, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions",[3] and the 1998 report on the matter containing a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162.[4]

12. With regard to the question of the maintenance of international peace and security, the Special Committee also had before it a revised proposal submitted at the 1998 session by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security;[5] a working paper[6] submitted by the Bolivarian Republic of Venezuela during the 2011 session, containing a further revised version of the proposal submitted by the same delegation at the 2010 session, entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs";[7] a further revised version, submitted at the 2014 session,[8] of the revised working paper submitted by Belarus and the Russian Federation at the 2005 session containing a draft General Assembly resolution;[9] a working paper submitted by Cuba at the 2012 session on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations;[10] a working paper submitted by Ghana at the present session on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful

[2] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346, A/59/334, A/60/320, A/61/304, A/62/206 and Corr.1, A/63/224, A/64/225, A/65/217, A/66/213, A/67/190, A/68/226 and A/69/119.

[3] A/70/119.

[4] A/53/312.

[5] See A/53/33, para. 98.

[6] A/AC.182/L.130, as further revised by the sponsor delegation. See A/66/33, annex.

[7] See A/65/33, annex.

[8] See A/69/33, para. 37.

[9] See A/60/33, para. 56. At the 1999 session of the Special Committee, Belarus and the Russian Federation submitted a working paper containing a draft General Assembly resolution (A/AC.182/L.104) in which it was recommended that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. At the same session, following discussions, the sponsors submitted a revised version of the draft resolution for future consideration (A/AC.182/L.104/Rev.1; see A/54/33, paras. 89-101). A further revised version was submitted at the 2001 session (A/AC.182/L.104/Rev.2; see A/56/33, para. 178).

[10] See A/67/33, annex.

settlement of disputes;[11] and a proposal submitted at the present session on behalf of the States Members of the United Nations that are members of the European Union on the consideration of the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions.[12]

13. With regard to the question of the peaceful settlement of disputes, the Special Committee had before it a proposal by the Russian Federation to recommend that the Secretariat be requested to establish a website dedicated to the peaceful settlement of disputes between States and to update the *Handbook on the Peaceful Settlement of Disputes between States*.[13] It also had before it a proposal submitted on behalf of the Non-Aligned Movement during the 2015 session entitled "Pacific settlement of disputes and its impact on the maintenance of peace".[14] The Special Committee also received at the present session a proposal submitted on behalf of the Non-Aligned Movement on the commemoration of the seventieth anniversary of the International Court of Justice.[15]

14. At its 283rd meeting, on 24 February, the Special Committee adopted its report on its 2016 session.

[11] A/AC.182/L.141, reproduced in the annex to the present report.
[12] A/AC.182/L.142.
[13] See A/69/33, para. 52 (as subsequently revised by the sponsor delegation).
[14] See A/70/33, annex I.
[15] A/AC.182/L.143. A revised version was issued as document A/AC.182/L.144 (see para. 92 below).

Chapter II
Maintenance of international peace and security

A. Implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions

15. The Special Committee considered the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions during the general exchange of views held at its 281st and 282nd meetings, on 16 and 17 February 2016, and at the 1st meeting of the Working Group of the Whole.

16. During the general exchange of views on the issue, many delegations reiterated their concern regarding sanctions imposed by the Security Council. It was re-emphasized that sanctions should not be used as blunt instruments designed to punish the population of the target country and that they were not applicable as a response to all violations of international obligations. Several delegations also made reference to the document entitled "Introduction and implementation of sanctions imposed by the United Nations" (General Assembly resolution 64/115, annex).

17. Some delegations reaffirmed their concern about the imposition of unilateral sanctions in violation of international law. It was stated that, in practice, such sanctions were often imposed as a result of the extraterritorial application of national regulations and that they infringed upon the rights of affected States, in addition to the individual rights of affected persons.

18. Several delegations re-emphasized that sanctions should be introduced and applied in conformity with the provisions of the Charter and international law. It was reiterated that they should be imposed only as a last resort when there existed a threat to international peace and security, a breach of the peace or an act of aggression. It was pointed out that double standards, selectivity and arbitrary methods had no place in the practice of the Security Council. Several delegations asserted that the objectives of sanctions regimes for a target country should be clearly defined, based on tenable legal grounds and imposed for a clear period. Some delegations also stressed that the Council should not exceed its competence under the Charter when implementing sanctions and that there should be a mechanism for the Council to promptly lift all sanctions when there were no longer grounds for having them.

19. Some delegations expressed support for examining the question of the provision of possible payment of compensation to targeted and/or third States for damage caused by sanctions found to have been unlawfully imposed. Other delegations stated that consideration of the issue was no longer necessary. The suggestion was reiterated that the International Law Commission should give consideration, in the context of its prior work on the responsibility of international organizations, to the legal consequences of sanctions arbitrarily imposed against Member States by the Security Council.

20. Several delegations reaffirmed that sanctions, applied in accordance with the Charter and in a targeted fashion, were an important instrument for the maintenance and restoration of international peace and security. It was further reiterated that the

shift from comprehensive to targeted sanctions had reduced the possibility of adverse consequences for civilian populations and third parties.

21. Other delegations noted that targeted sanctions might still have unintended effects on civilian populations and on third States.

22. Several delegations noted that in the recent report of the Secretary-General (A/70/119) it was indicated that the United Nations had not been approached by Member States since 2003 with regard to special economic problems arising from the implementation of sanctions. They also noted that neither the General Assembly nor the Economic and Social Council had found it necessary in the period under review to take any action relating to that matter. While expressing the view that the subject should not be removed from the agenda entirely, some delegations recalled that the Assembly, in paragraph 3 (b) of its resolution 70/117, had requested the Special Committee to consider the frequency of the consideration of the item.

23. At the 1st meeting of the Working Group of the Whole, a proposal, based on an oral proposal made by the European Union at the 2015 session of the Special Committee (see A/70/33, para. 26), was made, on behalf of the States Members of the United Nations that are members of the European Union, by which the Special Committee would consider the question every three years, except if one or more third States, finding themselves confronted with special economic problems arising from the application of sanctions, appealed for assistance in accordance with Article 50 of the Charter, whereupon the Special Committee would consider the question at its next session (see A/AC.182/L.142).

24. In the view of several delegations, the issue of assistance to third States affected by the application of sanctions, and any proposals submitted thereon, should continue to be considered by the Special Committee annually. It was pointed out that the fact that no State had required assistance should not lead to a general assumption that there were no difficulties. Some delegations suggested that the scope of the agenda item be expanded, for example; to include discussions on the impact of sanctions on targeted States themselves or on the legal consequences of unilateral sanctions.

Briefings

25. At its 1st meeting, the Working Group of the Whole received a briefing by representatives of the Department of Political Affairs and the Department of Economic and Social Affairs of the Secretariat on developments relating to paragraph 12 of the report of the Secretary-General on the question (A/70/119), as requested by the General Assembly in paragraph 16 of its resolution 70/117.

26. Some delegations suggested that the dearth of requests for assistance by third States affected by the application of sanctions could be due to a lack of information on where States should direct such requests. The representative of the Department of Political Affairs indicated that, in line with Article 50 of the Charter, requests were typically directed to the Security Council or the relevant sanctions committees. The Secretary-General forwarded any requests received to those bodies. To date, one request had been received and remained under consideration by the committee concerned. Requests could also be raised at meetings between sanctions committees and States in the region, at open briefings by the Chairs of the sanctions committees and during visits by committee Chairs to countries most directly affected by

sanctions. States could also convey their concerns in their interactions with the expert groups tasked with assisting committees in monitoring the implementation of sanctions.

27. Several delegations requested the Secretariat to conduct further research on the effects on third States of the application of sanctions, noting that the appropriate bodies of the Secretariat had the relevant authority. The representative of the Department of Economic and Social Affairs indicated that, in the absence of a request from the Security Council or one of its organs to evaluate the effect of the application of sanctions on third States, no country-specific examination could be carried out by the Secretariat. The representative added that the Department's most recent work in that regard consisted of methodological and technical publications, rather than case studies. The representative of the Department reiterated that the Secretariat stood ready to respond to any request made by the Security Council or one of its organs.

28. At its 3rd meeting, at the request of several delegations, the Working Group of the Whole received a briefing by representatives of the Department of Political Affairs on the implementation of the document entitled "Introduction and implementation of sanctions imposed by the United Nations" annexed to General Assembly resolution 64/115. The representatives provided information on the elements of the document and responded to questions raised in that regard. Several delegations that viewed such briefings as useful and informative spoke in favour of their being held annually. Others expressed the view that the substance of the briefings was focused on the implementation of sanctions more generally and did not relate to the item under consideration.

Recommendations

29. The recommendations on the item, adopted by the Special Committee, are reproduced in paragraph 87 below.

B. Consideration of the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security

30. The revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security (see A/53/33, para. 98) was referred to in general terms during the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, and was considered at the 1st meeting of the Working Group of the Whole.

31. In the Working Group of the Whole, the sponsor delegation reiterated its willingness to engage in a discussion on its revised proposal with a view to reaching a common understanding of the issues raised therein.

32. While support was expressed for the continued consideration of the proposal, several delegations were of the view that the proposal duplicated revitalization efforts undertaken elsewhere within the Organization and that it had been superseded by events. The sponsor delegation was encouraged to consider

withdrawing the proposal with a view to rationalizing the work of the Special Committee.

C. Consideration of the further revised working paper submitted by the Bolivarian Republic of Venezuela entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs"

33. The further revised working paper entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs", submitted by the Bolivarian Republic of Venezuela at the 2011 session of the Special Committee (A/66/33, annex), was referred to during the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, and was considered at the 1st meeting of the Working Group of the Whole.

34. In their general comments, several delegations reiterated their concern that the Security Council had encroached on the functions and competences of the General Assembly and the Economic and Social Council by addressing issues that fell within the competence of those organs. Some emphasized that there was a need to establish the right balance of functions and parallel activities among the principal organs of the United Nations. Reference was again made to paragraph 153 of the 2005 World Summit outcome document (Assembly resolution 60/1) and to paragraph 35 of the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels (Assembly resolution 67/1), in which the importance of continuing efforts to reform the Security Council was stressed. It was reiterated that the reform of the Organization should be carried out in accordance with the principles and procedures established by the Charter.

35. Several delegations expressed support for the proposal as a means of reforming and revitalizing the Organization.

36. The view was reiterated that the proposal was duplicative of other efforts aimed at revitalizing the Organization. Opposition was expressed to the establishment of an open-ended working group.

37. The sponsor delegation requested that the working paper be retained on the work programme of the Special Committee. It reiterated its intention to continue to hold bilateral discussions on the proposal and welcomed suggestions to further improve the working paper.

D. Consideration of the revised working paper submitted by Belarus and the Russian Federation

38. During the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, and at the 2nd meeting of the Working Group of the Whole, the Special Committee considered the further revised working paper submitted by Belarus and the Russian Federation at the 2014 session of the Special Committee (see A/69/33, para. 37), in which it was recommended,

inter alia, that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence.

39. One of the sponsors of the proposal recalled the background to the proposal and highlighted the continued relevance of the subject matter of the revised working paper and its value in providing a common understanding of the legal consequences of the resort to the use of force by States without prior authorization by the Security Council. The sponsor delegation expressed its regret that the proposal, which had been initially introduced at the 1999 session of the Special Committee (see A/54/33, para. 90), had not yet achieved consensus. The sponsors favoured retaining the proposal on the agenda of the Special Committee.

40. Several delegations reiterated their support for the proposal and its further consideration. It was stated that the proposal remained topical and pointed out that an advisory opinion by the International Court of Justice would contribute to clarifying the provisions of the Charter regarding the use of force. It was also pointed out that previous pronouncements of the International Court of Justice had provided guidance on only some aspects.

41. Several other delegations reiterated that they could not support the proposal. It was noted that the International Court of Justice had previously had the opportunity to pronounce itself on the legal principles applicable to the use of force, and since existing international law was sufficiently clear, a further advisory opinion would add little value. The Special Committee was called upon to consider removing the proposal from its agenda.

E. Consideration of the working paper submitted by Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations

42. The working paper entitled "Strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations", a revised version of which was submitted by Cuba at the 2012 session of the Special Committee (A/67/33, annex), was referred to during the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, and was considered at the 2nd meeting of the Working Group of the Whole.

43. During the general exchange of views, the sponsor delegation stressed that the working paper remained valid and invited delegations to share their views on it. Several delegations expressed their support for the proposal. Other delegations were of the opinion that the Special Committee should not consider topics that would be duplicative of or inconsistent with the roles of the principal organs of the United Nations as set forth in the Charter.

44. During the 2nd meeting of the Working Group of the Whole, the sponsor delegation gave a detailed presentation of the proposal and underlined that the purpose of the proposal was to recommend the carrying out of a set of legal analyses and studies in relation to the functions and powers of the Assembly and the Council. It highlighted two recommendations for consideration, namely, that legal studies be undertaken on Articles 10 to 14 of the Charter, relating to the function and powers

of the Assembly, and on Article 12, paragraph 1, of the Charter, concerning the relationship between the General Assembly and the Security Council when the latter is exercising its functions. The sponsor delegation recalled that the paper had been revised in 2012.

45. Several delegations noted that the Charter was a living document and that legal analysis of its provisions, in particular the provisions of Chapter IV, was relevant and necessary for reforming the Charter. Support was also expressed for retaining the proposal on the agenda of the Special Committee.

46. Several other delegations maintained that the Charter was sufficiently clear and that further legal study would not add anything meaningful. It was also observed that the issue of the relationship between the General Assembly and the Security Council was dealt with by other bodies within the Organization.

47. The sponsor delegation reaffirmed that the intention of the proposal was to achieve the delicate balance envisaged in the Charter between the mandates of all the principal organs and, in particular, to elevate the General Assembly as the main organ of the United Nations. It further emphasized its willingness to modify the language and the scope of the working paper, submit a revised version and continue consultations with delegations, and formally requested that it be retained on the agenda of the Special Committee.

F. Consideration of the working paper submitted by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes

48. The working paper entitled "Strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes"[16] was presented by Ghana in follow-up to its concept paper on the same subject introduced at the 2015 session of the Special Committee (A/70/33, annex II). It was referred to during the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, and was considered at the 2nd meeting of the Working Group of the Whole.

49. During the general exchange of views, several delegations expressed their support for the working paper, noting that the subject was topical and relevant to the work of the Special Committee, and that it could serve the practical purpose of helping to fill gaps in the work of the Organization.

50. At the 2nd meeting of the Working Group of the Whole, the sponsor delegation explained that the working paper was aimed at filling any gaps that existed in the working relationship between the United Nations and regional arrangements or agencies with regard to the coordination of their activities, for example, in such areas as regional security, preventive diplomacy, peacekeeping and post-conflict peacebuilding. It welcomed comments from other delegations in order to further develop the paper.

[16] A/AC.182/L.141, reproduced in the annex to the present report.

51. Several delegations voiced support for the working paper, noting the important role that various regional and subregional arrangements or agencies, where appropriate, played in the maintenance of international peace and security, in terms of both enforcement action and conflict prevention. A suggestion was made to include a reference to Chapter VI of the Charter.

52. Some delegations requested that the sponsor delegation further delineate the scope of the working paper in order to prevent duplication with discussions held in other bodies of the Organization and to permit the Special Committee to go beyond the 1994 Declaration[17] referred to in the working paper. It was suggested that the sponsor delegation could reflect the content of existing General Assembly resolutions, Security Council resolutions and statements and other documents regarding regional cooperation, in a revised version of the working paper, with a view to identifying specific issues not already covered. The working paper was received in a constructive spirit, and delegations agreed to work on it during the intersessional period and at the next session of the Special Committee.

53. The sponsor delegation indicated its intention to continue to develop the working paper, including by holding further consultations. It also stressed that the working paper did not focus on any particular region or type of regional arrangements or agencies.

54. The decision on the item, adopted by the Special Committee, is reproduced in paragraph 87 below.

[17] See General Assembly resolution 49/57, annex.

Chapter III
Peaceful settlement of disputes

55. The Special Committee considered the item entitled "Peaceful settlement of disputes" during the general exchange of views held at its 281st and 282nd meetings, on 16 and 17 February 2016, and at the 2nd meeting of the Working Group of the Whole.

56. During the general exchange of views, delegations expressed their support for all efforts to address the peaceful settlement of disputes. Delegations reiterated their preference that, in accordance with the mandate of the Special Committee, the question of the peaceful settlement of disputes remain on its agenda. The role of the International Court of Justice as the principal judicial organ of the United Nations was reiterated. The significance of the Manila Declaration on the Peaceful Settlement of International Disputes, which had been approved by the General Assembly in 1982 and annexed to its resolution 37/10, was recalled.

A. Proposal by the Russian Federation to recommend that the Secretariat be requested to establish a website on the peaceful settlement of disputes and update the *Handbook on the Peaceful Settlement of Disputes between States*

57. During the general exchange of views and at the 2nd meeting of the Working Group of the Whole, the sponsor delegation recalled its proposal (see A/69/33, para. 52) that the Special Committee consider requesting the Secretariat to establish a website, within existing resources, dedicated to the peaceful settlement of disputes between States, which would include references to relevant United Nations documents, as well as to the United Nations and other organs active in the field, and to update the *Handbook on the Peaceful Settlement of Disputes between States*, prepared by the United Nations in 1992. The sponsor delegation also recalled that the *Handbook* had been prepared on the basis of an earlier initiative of the Special Committee (see General Assembly resolutions 39/79 and 39/88 of 13 December 1984).

58. Several delegations voiced support for the proposal in the Working Group of the Whole. The view was expressed that updating the *Handbook* would be beneficial to Member States, especially developing States which might have only limited access to the Internet. It was also observed that a website established by the United Nations Secretariat, in close cooperation with Member States, would be more reliable than other online sources providing information on means for the peaceful settlement of disputes. It was maintained that updating the *Handbook* and establishing a website would likely not require additional resources.

59. Several other delegations expressed reservations as to the added value of either undertaking, with some pointing out that all the information in question was readily accessible online in a more comprehensive manner. The view was expressed that updating the *Handbook* would require considerable efforts and resources. Concern was also expressed that, even if such work could be undertaken within existing resources, it would not be a proper prioritization of the limited resources allocated to the Secretariat.

60. The sponsor delegation recalled its view that the added value of an update to the *Handbook*, and the establishment of a website, was that it would reflect the expertise of the Secretariat of the United Nations. It further requested that the proposal be retained on the agenda of the Special Committee.

B. Proposal submitted on behalf of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace"

61. The proposal submitted on behalf of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace" at the 2015 session of the Special Committee (A/70/33, annex I) was referred to during the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, and was considered at the 2nd meeting of the Working Group of the Whole.

62. In its general statement and in the Working Group of the Whole, the sponsor delegations reiterated the view that the suggested annual review of the issue by the Special Committee, based on a compilation of relevant practices by Member States, would contribute to the more efficient and effective use of such peaceful means, in accordance with Chapter VI of the Charter, and would provide the opportunity for the Special Committee to consider the use of means for the peaceful settlement of disputes. It was recalled that, under the proposal, the International Law Commission would be requested to undertake a study on the obligation of States to use peaceful means for settling their international disputes. The sponsor delegations explained that the proposal was not intended to limit the principle of consent and the free choice of means in peaceful dispute settlement. It was also clarified that the proposal addressed the peaceful settlement of disputes in general terms.

63. Many delegations, both in the general exchange of views and in the Working Group of the Whole, reiterated their commitment to the peaceful settlement of international disputes and expressed their support for the proposal. The need for parties to a dispute to refrain from taking unilateral measures that could frustrate the solution of the dispute was emphasized. The importance of studying the use of means of dispute settlement was emphasized. Support was expressed for the approach taken in the proposal of placing the onus on Member States to provide information regarding the resort to peaceful means of dispute settlement.

64. Other delegations, while welcoming the proposal, requested more time for reflection and consultation. It was noted that the rationale behind the proposal and the extent to which it overlapped with efforts in other forums had to be clarified. Doubts were also expressed as to whether it would be advisable to request the International Law Commission to study the obligation of States to use peaceful means for settling their international disputes.

65. The proposal was received in a constructive spirit and delegations agreed to work on it during the intersessional period and at the next session of the Special Committee. The sponsor delegations expressed their willingness to continue consultations with other Member States to further develop the proposal.

66. The decision on the item, adopted by the Special Committee, is reproduced in paragraph 87 below.

Chapter IV

Repertory of Practice of United Nations Organs and *Repertoire of the Practice of the Security Council*

67. During the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, delegations commended the continuing efforts of the Secretariat to update the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and to eliminate the backlog in their preparation. The significance of the two publications as sources of reference and effective means to maintain the institutional memory of the Organization, as well as their importance in the dissemination of the work of the Organization, were recalled. Several delegations emphasized the need to eliminate the backlog with regard to volume III of the *Repertory*.

68. Delegations expressed appreciation to those Member States that had contributed to the two trust funds established for the *Repertory* and the *Repertoire*, which had facilitated the progress in eliminating the backlog with regard to those publications, and encouraged Member States to make additional contributions.

69. At its 3rd meeting, the Working Group of the Whole was informed by representatives of the Secretariat about the status of the preparation of the *Repertory* and the *Repertoire*.

70. Concerning the status of the *Repertory*, it was reported that research and drafting of studies on Articles 52 and 54 for volume III of Supplements 7 to 9 (1985-1999) had been completed by the Faculty of Law of the University of Ottawa. Studies on Articles 33 (1) and 53 for Supplements 7 to 9 had also been prepared and were under review. Progress had been made on the studies on Articles 41, 52 and 54 for Supplement 10 (2000-2009), and work had begun on Supplement 11 (2010-2015), particularly on Article 13 (1) (a). On the website of the *Repertory*, 43 completed volumes, together with advance versions of studies under review, could be searched through the website's full-text search function.

71. Cooperation with the University of Ottawa had continued, resulting in the completion of several studies. It was anticipated that the well-established cooperation with Columbia University would resume in the near future. The Secretariat was also assisted by the work of interns. The Secretariat reiterated its appeal, previously made in the Sixth Committee, that delegations convey expressions of interest by academic institutions for possible cooperation on the *Repertory*. To date, the appeal had resulted in contact with two academic institutions in the Asia-Pacific region.

72. Since the establishment of the trust fund in 2005, more than $136,000 had been donated,[18] not including donations made in 2016. After the use of part of the funds for the preparation of *Repertory* studies, approximately $41,800 remained available in the trust fund.

73. With regard to the *Repertoire*, it was pointed out that, in the previous year, the Security Council Practices and Charter Research Branch of the Security Council

[18] Donations were made by Albania, Chile, Finland, Greece, Guinea, Ireland, Lebanon, Luxembourg, Turkey and the United Kingdom of Great Britain and Northern Ireland.

Affairs Division had worked on Supplements 18 and 19, covering the period from 2012 to 2015.

74. With the exception of two parts, the entire volume of Supplement 18, covering the years 2012 and 2013, had been completed and had been made available electronically in an advance version on the Security Council website. The groundwork for Supplement 19, covering 2014 and 2015, had been carried out systematically over the previous two years by recording the most contemporary practice of the Council in an internal database and compiling the relevant documentation. Several parts of that Supplement would be made available on the website in the second half of 2016. Progress on the work on Supplement 19 would depend on the availability of resources. Work was also continuing on translating the *Repertoire* into all the official languages and publishing the completed Supplements covering the period from 1993 to 2001. Supplement 16 had been made available in print in March 2015.

75. It was also emphasized that, in addition to electronic versions of the *Repertoire*, the Security Council website contained, inter alia, tables and graphs providing an overview of historical trends relating to the work of the Council, highlights of Council practice for 2015 and tables and graphs showing components of the mandates of current peacekeeping and political missions, which allowed for comparison of mandates over time and across missions. The website's search function had been further updated to make it more user-friendly, reliable, accurate and effective.

76. The Branch had responded to numerous requests for information relating to the current and past practice of the Council and its subsidiary organs. Aside from its work on the *Repertoire*, it had also eliminated the remaining backlog in the preparation of volume III of the *Repertory of Practice of United Nations Organs*, which was available on the *Repertory* website. It was further emphasized that the preparation and publication of the *Repertoire* continued to rely on voluntary contributions to the Trust Fund and the sponsorship of associate experts.[19]

77. Following the reports by representatives of the Secretariat, several delegations sought clarification regarding certain specific studies and the modalities of cooperation with academic institutions. The Secretariat was encouraged to expand its cooperation with such institutions, in particular with those from developing countries, as well as to expand use of the internship programme, ensuring equitable geographical representation of researchers and students working on the studies. Some delegations also requested the Secretariat to expedite the preparation of translations and paper copies of the *Repertory* and the *Repertoire*. The Secretariat indicated that it would welcome expressions of interest for cooperation on the *Repertory* by academic institutions in all regions. It emphasized that the Secretariat bore final responsibility for the quality of all studies, which were subject to extensive review by the relevant departments of the Secretariat.

[19] Donations were made, or associate experts were sponsored, by Albania, Angola, Belarus, Belgium, Benin, China, Croatia, Finland, France, Germany, Greece, Ireland, Italy, Japan, Libya, Luxembourg, Mexico, New Zealand, Nigeria, Norway, Pakistan, Portugal, Qatar, the Republic of Korea, the Congo, the Russian Federation, Singapore, Switzerland, Turkey and the United Kingdom.

78. The Special Committee recommends that the General Assembly:

(a) Commend the Secretary-General for the progress made in the preparation of studies for the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

(b) Note with appreciation the contributions made by Member States to the trust fund for the elimination of the backlog in the *Repertory*, as well as the trust fund for the updating of the *Repertoire*;

(c) Reiterate its call for voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in carrying out the effective elimination of that backlog; voluntary contributions to the trust fund for the updating of the *Repertoire*; and the sponsoring, on a voluntary basis and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

(d) Call upon the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions;

(e) Note with concern that the backlog in the preparation of volume III of the *Repertory*, although slightly reduced, has not been eliminated, and call upon the Secretary-General to address that issue effectively and on a priority basis, while commending the Secretary-General for progress made in reducing the backlog;

(f) Reiterate the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire*, and with regard to the *Repertoire* call upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report dated 18 September 1952 (A/2170).

Chapter V

Working methods of the Special Committee and identification of new subjects

A. Working methods of the Special Committee

79. The issue of the working methods of the Special Committee was addressed by several delegations during the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, and was considered at the 3rd, 4th and 5th meetings of the Working Group of the Whole.

80. Several delegations stressed that the Special Committee played an important role in the clarification and interpretation of provisions of the Charter of the United Nations and that there was a need to reinvigorate its work. The potential of the Special Committee to assist in the revitalization of the Organization, as was evident from the landmark instruments that it had produced in the past, including the Manila Declaration on the Peaceful Settlement of International Disputes, was also noted.

81. Several delegations continued to urge the Special Committee to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency, and to fully implement the decision on working methods adopted in 2006, as reflected in paragraph 3 (e) of General Assembly resolution 70/117. Several delegations emphasized that there was a need for States to review all existing agenda items, looking into the added value of further discussing them, and taking into account their continued relevance and the likelihood of reaching a consensus in the future before considering new items.

82. Some delegations reiterated that the work of the Special Committee should be reviewed to ensure that the overlap between organs considering the same or similar issues was eliminated and that items that had been or were being considered elsewhere were not duplicated by the Special Committee. Some delegations reaffirmed that the Special Committee should examine the frequency and duration of its meetings, perhaps by meeting every two years or shortening its sessions.

83. Some delegations spoke against any proposal to shorten the duration of the sessions or not to convene the Special Committee annually. It was pointed out that there should be greater possibilities for substantive and constructive debates on existing and new proposals. It was suggested that the Special Committee should discuss proposals paragraph by paragraph.

84. Several delegations re-emphasized that the full execution of the mandate of the Special Committee depended on the political will of States and on the full implementation and optimization of the methods of work of the Special Committee. It was also suggested that some States were blocking the consideration of proposals before the Special Committee without presenting any substantive arguments as to their reasoning. In this regard, some delegations regretted that, at its 2015 session, the Special Committee had not been able to agree on a recommendation for a resolution regarding the commemoration of the seventieth anniversary of the Charter.

85. Several delegations placed special emphasis on continuing to consider items and proposals regarding the question of the maintenance of international peace and security, in particular those addressing the functions of the General Assembly. It was also observed by several delegations that the Special Committee was the appropriate

forum for the consideration of reform proposals that would enhance the effectiveness and legitimacy of the Organization.

86. It was suggested that the documents of the Special Committee should be made available through the PaperSmart portal, and that future open meetings of the Special Committee should be webcast.

87. In order to rationalize the agenda and the work of the Special Committee, in the spirit and understanding of paragraph 3 (b) of General Assembly resolution 70/117, the Special Committee, at its 283rd meeting, adopted the following decisions and recommendations:

The Special Committee

1. *Calls upon* the Member States to hold intersessional informal meetings with the aim of finalizing the proposal of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace"[20] and the proposal submitted by Ghana entitled "Working paper by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes",[21] and calls upon all the Member States to constructively engage on those proposals with a view to making substantive progress at the next session of the Special Committee;

2. *Recommends* that the question of the implementation of the provisions of the Charter of the United Nations relating to assistance to third States affected by the application of sanctions (Article 50 of the Charter of the United Nations) be considered by the Special Committee at the seventy-second session of the General Assembly and biennially thereafter, and recommends that the Secretary-General be requested to submit to the General Assembly a report on the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions at the seventy-second session and biennially thereafter;

3. *Recommends* that the Secretary-General be requested to brief the Special Committee annually, commencing at its 2017 session, on the document entitled "Introduction and implementation of sanctions imposed by the United Nations" contained in the annex to General Assembly resolution 64/115 of 16 December 2009;

4. *Requests* the Chair of the Special Committee to send a letter to the President of the General Assembly recalling the seventieth anniversary of the International Court of Justice and welcoming the events planned to commemorate the occasion;

5. *Recommends* that the General Assembly mark the seventieth anniversary of the International Court of Justice by means of the commemorative draft resolution, recommended by the Special Committee,[22] to be adopted at its seventy-first session.

[20] A/70/33, annex I.

[21] A/AC.182/L.141, reproduced in the annex to the present report.

[22] See paragraph 92 below.

B. Identification of new subjects

88. The issue of the identification of new subjects was considered during the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February, and at the 3rd, 4th and 5th meetings of the Working Group of the Whole.

89. At the 3rd meeting of the Working Group of the Whole, the representative of the Islamic Republic of Iran (on behalf of the Non-Aligned Movement) introduced a proposal entitled "Proposal of the Non-Aligned Movement on the commemoration of the seventieth anniversary of the International Court of Justice" (A/AC.182/L.143). At the 4th meeting of the Working Group, the sponsor delegation submitted a revised version of the proposal containing a recommendation for adoption by the Special Committee (A/AC.182/L.144). The sponsor delegation observed that its proposal acknowledged the important role played by the International Court of Justice as a principal organ of the United Nations, and its accomplishments in the peaceful settlement of disputes and the development of international law.

90. Several delegations voiced their support for the proposal, underlining that it closely followed the text of General Assembly resolution 61/37, adopted to mark the sixtieth anniversary of the International Court of Justice. The significant contribution of the Court to the architecture of international law was also emphasized.

91. Some delegations drew attention to the fact that celebrations, involving high-level representatives of United Nations organs and the host State, were scheduled to be held in The Hague.

92. The Special Committee recommends the following draft resolution for the consideration of the General Assembly with a view to its adoption:

The General Assembly,

Mindful that, in accordance with Article 2, paragraph 3, of the Charter of the United Nations, all Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered,

Bearing in mind the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations[23] and the Manila Declaration on the Peaceful Settlement of International Disputes,[24]

Recognizing the need for universal adherence to and implementation of the rule of law at both the national and international levels,

Recalling that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Noting that 2016 marks the seventieth anniversary of the inaugural sitting of the International Court of Justice,

[23] Resolution 2625 (XXV), annex.
[24] Resolution 37/10, annex.

Noting with appreciation the special commemorative event held at The Hague in April 2016 to celebrate the anniversary,

1. *Solemnly commends* the International Court of Justice for the important role that it has played as the principal judicial organ of the United Nations over the past seventy years in adjudicating disputes among States, and recognizes the value of its work;

2. *Expresses its appreciation* to the Court for the measures adopted to operate an increased workload with maximum efficiency;

3. *Stresses* the desirability of finding practical ways and means to strengthen the Court, taking into consideration, in particular, the needs resulting from its workload;

4. *Encourages* States to continue considering recourse to the Court by means available under its Statute, and calls upon States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute;

5. *Calls upon* States to consider means of strengthening the Court's work, including by supporting the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice on a voluntary basis, in order to enable the Fund to carry on and to strengthen its support to the countries which submit their disputes to the Court;

6. *Stresses* the importance of promoting the work of the International Court of Justice, and urges that efforts be continued through available means to encourage public awareness in the teaching, study and wider dissemination of the activities of the Court in the peaceful settlement of disputes, in view of both its judiciary and advisory functions.

Annex

Working paper by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes

Introduction

Under Chapter VI, Article 33, of the Charter of the United Nations, Member States that are parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, are entreated to first seek a solution through one of the peaceful methods or means stipulated therein, one of which is the resort to regional arrangements or agencies.

The need for peaceful settlement of disputes, as envisaged under Article 33 of the Charter, was underscored in General Assembly resolution 37/10 of 15 November 1982, by which the Assembly approved the Manila Declaration on the Peaceful Settlement of International Disputes and acknowledged the role of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization in elaborating the text of that Declaration. In this regard, on 9 December 1994, the Special Committee adopted the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security (hereinafter "the 1994 Declaration").[25]

The Charter of the United Nations established the Security Council as the organ charged with the primary responsibility for the maintenance of international peace and security, while foreseeing a role for regional arrangements or agencies, especially with regard to the peaceful settlement of disputes. Under Chapter VIII of the Charter, regional arrangements or agencies are encouraged to contribute towards the maintenance of international peace and security insofar as such efforts are in accordance with the Charter. The Security Council is encouraged to utilize regional arrangements or agencies, but regional arrangements or agencies may take enforcement action only with the authorization of the Security Council.

In addition, Article 54 provides that the Security Council should at all times be kept fully informed of the activities undertaken or contemplated by regional organizations for the maintenance of international peace and security.

Main elements of the working paper

The Special Committee has had occasion in recent decades to consider principles that should guide the relationship between the United Nations and regional arrangements or agencies, as Member States expected the United Nations to play a greater role in the maintenance of international peace and security and to more effectively respond to global threats and challenges.

[25] General Assembly resolution 49/57, annex. See also A/61/204-S/2006/590, A/67/280-S/2012/614, and Security Council resolution 2167 (2014).

Notwithstanding the previous efforts of the Special Committee in considering and even adopting such guiding principles, past and current experiences of the international community — including the United Nations and regional arrangements or agencies in various undertakings to address situations that threatened international peace and security — have underscored the imperative of promoting better coordination and cooperation between the United Nations and regional arrangements or agencies.

Given the important role that regional arrangements or agencies play in promoting the rule of law, human rights and international humanitarian law in the maintenance of international peace and security, it is necessary for the United Nations, including both the General Assembly and the Security Council, to explore urgent measures to improve their working relationship with regional arrangements or agencies towards the peaceful settlement of disputes.

These measures would include exploring institutional mechanisms to enable more effective and timely interaction and strategic cooperation between the Organization and the regional arrangements or agencies. In so doing, the Special Committee could build not only on its past work on this topic, but also draw from various seminal reports of the Secretary-General, including "An Agenda for Peace" (1992) and "In larger freedom" (2005), which highlight such ideas as:

- Regional security
- The role that regional arrangements or agencies could play in preventive diplomacy
- Early warning systems
- Peacekeeping and post-conflict peacebuilding and means by which the United Nations could work with regional arrangements or agencies in more predictable and reliable partnerships.

Other reports of the United Nations organs dealing with these subjects may also be found relevant.

Recent challenges have underlined the urgent necessity for the Special Committee to reactivate and revisit the topic of the need to strengthen the cooperation, coordination and relationship between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes that threaten international peace and security. These challenges include the perception that, in some cases, the United Nations has not succeeded in effectively cooperating with regional arrangements or agencies, and that, in other cases, there has been a lack of clarity as to how the United Nations might engage in situations concerning multiple regional arrangements or agencies at the same time.

In addition, revisiting this topic will offer Member States an opportunity to assess the degree of compliance with or implementation of the 1994 Declaration with a view to addressing any apparent gaps or shortcomings at the level of cooperation, coordination and working relationships between the United Nations and regional arrangements or agencies in the context of the peaceful settlement of disputes.

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